

Municipal Council Meeting
November 9, 2004 7:00PM
Town Hall Auditorium

Pledge of Allegiance – Councilor Chandler

Roll Call: Ann Connolly King, Christopher G. Lawrence, Mario J. Pinierio, Robert D. Woodsom, Roger Benson, James D. Chandler and Joseph W. McMilleon
Esther F. Headley and Anne C. Larnard – Absent

President McMilleon asks that there be a moment of silence for the families of the soldiers and military people in Iraq.

Before we take up the school lunch deficit I would like to take up the Mayoral Appointments, we have some individuals that are here waiting if there are no objections.

2004-115 Curtis Wollitz, Assoc. member Design Review Committee term to expire 6/30/06 cont.
President McMilleon – reads 2004-115 into the record. We have a recommendation for approval from planning board which we referred to at our last meeting. Mr. Wollitz is not able to be with us this evening; he was with us the last time. I would entertain a motion on this appointment.

Councilor Chandler – I move that we accept Curtis Wollitz for the Design Review as per 2004-115.

Councilor King – second

Voted – 4 Yes, 3 No (Pinierio, Benson and Lawrence)

2004-116 Appointment of Master Plan Implementation & Oversight Committee cont.
President McMilleon – reads 2004-116 into the record. Again this was referred to the planning board and it was approved. I will entertain a motion.

Councilor Benson – I move the recommendation of the Planning Board that we approve 2004-116 as submitted.

Councilor Lawrence – second

Councilor Benson – It says here that the Office of Community and Economic Development designated is Jennifer Raitt, last I heard she was leaving.

Orlando Pacheco – Yes, Nipun Jain will be taking her place.

President McMilleon – Why don't we approve what we have before us excluding that designee.

Voted – Unanimous

2004-118 Gregory A. Roy, Assoc. member Lakes & Waterways term to expire 6/30/06
President McMilleon – reads 2004-118 into the record and asks Mr. Roy to come up.

Gregory Roy, 10 Vine Street – I moved here about 10 years ago and wanted to contribute to my town. I inquired and lakes and waterways are of interest to me. I am licensed professional engineer in the State of Mass and have been working for a large engineering firm for the last 16 years. I have my masters and bachelors in environmental engineering. I felt that my experience would be a great contribution to that committee.

Councilor Pinierio – I move to appoint Gregory A. Roy to the Lakes & Waterways 2004-118.

Councilor Chandler – second

Voted – Unanimous

President McMilleon – we will move back to Supt. Chaurett and Mike Basque on the School lunch deficit.

Charles Chaurette – Mr. Chaurette passes out and reads and informational packet on the school lunch deficit (copy attached) and introduces Jean Case, Business Consultant functioning as the role of Business Manager, former Assistant Superintendent for Business and Finance in Newburyport.

Councilor Pinierio – The custodian salary \$17,652 – the custodians are working already in the cafeteria; why did you put in salary under the school lunch account.

Charles Chaurette – I didn't, this was done by the previous administration. As far as the whys; to be quite honest I have no clue. What I tried to do here is simply identify for the council and the school committee, exactly what was the genesis of this deficit. In terms of the whys quite frankly I would be guessing and there are some situations where I was left wondering what the rational was for that. My commitment really is to find out how it happened and a commitment to make sure it never happens again by putting in place structures to prevent us from having these kinds of deficits in the future.

Councilor Pinierio – This deficit of \$108,937, how do you plan to pay that down and how much time do you have to pay that down because I know the DOR gave you a time limit.

Charles Chaurette – That is an important question, my plan right now is to present to the school committee next Tuesday with a plan to address this deficit. I can honestly tell you tonight that I am not sure that I will be able to deal with the entire amount. Our commitment is to target as much money as we possibly can from the School Budget. The reality is that we have a really tight budget. It is not like there is money laying around in accounts waiting to be spent. We have to take a look, Mr. Case and myself, really looking at every line item in the budget, every revenue source we have to see and what are the budgetary assumptions that were made when this budget was developed back in February – June. See if any of those assumptions were more conservative and maybe we have better revenue sources to address that that is what we are in the process of doing on Tuesday.

President McMilleon – Just one quick question for the Superintendent, on FY03 even though we came up with a surplus balance of \$26,000 were there any inappropriate expenditures.

Charles Chaurette – I'm not sure, I believe the answer to that is yes but, I'm not positive.

President McMilleon – Can we get some detail on that, I would appreciate that. Mike, I'm not aware that in FY02, FY03 and FY04 during the budget hearings that we were having that this council was informed on these deficits. Am I wrong in that understanding?

Mike Basque – I don't think it came up in part of the school budget meetings, no.

President McMilleon – Why would it not come up in those budget hearings?

Mike Basque – I think because it is a revolving account and they were not requesting an appropriation. You went over all of the accounts, the athletic accounts, all of the other accounts. They notify you when they are applying revenues from these various sources to be added to their appropriations such as school choice, athletics and tuition. I don't recall any discussion of the lunch program.

President McMilleon – I sit here really amazed at the fact that we went through three fiscal years and this was never brought to our attention. I don't understand how that could happen. I know residents are upset and I don't blame them and I know there are members of this council that are upset. I look at each one of these fiscal years and there were inappropriate expenditures in this account in addition to the fact that this council was not informed of what was going on. It makes all of us look bad, just unbelievable.

Councilor Pinierio – Can we get a monthly account of what is going on with the school lunch because I am just as upset about this whole thing as Joe is; for three years it has gone through this council and they haven't said a thing. My feeling is, what are they hiding? If you are not hiding anything, bring it to the table.

Councilor Chandler – I agree with Joe. It seems these revolving accounts give the different departments a huge fudge factor, something to play with and keep out of the lime light. I would like to know with the school department and every other department in town, every revolving account we have and where each one stands and somehow we need to get a cap on these things and get control over them. Is that something that we can get?

Mike Basque – Our balance sheet every year lists every one of the revolving and special revenues but, we can give it however you want it.

Councilor Pinierio – How many other revolving accounts do we have?

Mike Basque – Well there are revolving and special revenues in the school departments case they probably have 30 different programs, special revenues, title 4 all are special revenue accounts. These are all funds that they get from state or federal sources for various programs and grants that they apply for.

Councilor Chandler – By now we also heard of talk of taking athletic money and trying to pay this off, which is illegal. There should be an account on athletics, all the receipts that should be in its own pile and not going into the general fund.

Mike Basque – Their true revolving accounts are really the lunch room, athletics and one called lost books and industrial arts which is an old program. They have user accounts and all others are called special revenue which is various federal and state grants that they get.

Councilor Chandler – We have this problem with the cemeteries, people buy lots and that money ends up going to the general fund. All these funds should be specifically accounted for and we should know exactly how much is in these funds and how they pay for themselves and if there is a surplus. If there is a huge surplus the council can maybe vote to do something with it.

Councilor Benson – Mike, we have control over the municipal revolving funds; no money gets taken out unless we vote it at the end of the year right.

Mike Basque – Every year when we do the budget we recommend that you take so much money from the youth, so much from the sale of lots, so much from the interest on cemeteries.

Councilor Benson – So that is basically how revolving funds on the municipal end work, how does it work on the school end?

Mike Basque – The school committee has that authority, all school bills are paid on a school warrant, a separately approved warrant which is approved by the school committee.

Councilor Benson – But when their budget comes to us...

Mike Basque – They do a request for \$20,000,000 and in addition to that they always supply you with that information saying, in addition to the \$20,000,000 appropriation of the town we have available to us so much from athletics, school choice, South Hampton tuition they just notify you what they are using you don't authorize it or vote it.

Councilor Benson – But in that revenue detail when we get the budget on the school side would it have said anything about a deficit?

Mike Basque – Not school lunch....

President McMilleon – The revolving account is a separate account apart from the regular appropriation but the bottom line is and I'm not blaming Supt. Chaurette because he is new here; there still should be an accounting. During the budget hearings if there is a deficit in the school budget and that was a deficit no matter how you cut it; whether you say it was under a revolving account or regular accounts under the school budget...

Mike Basque – It should have been noted here is a problem and an issue where we are going to need to transfer money to take care of it.

President McMilleon – Exactly, we should have been told about it and it should have been brought to light and out there as public information and it was not.

Councilor Lawrence – Mike, can you explain how these accounts are set up?

Mike Basque – The money comes into the Treasurer, a separate fund number assigned to them.

Councilor Lawrence – All expenditures from revolving accounts must be approved by appropriate school personnel, who are they?

Mike Basque – School Committee.

President McMilleon – That would come from the business manager and then to the school committee.

Councilor Lawrence – If there are additional deficits they will be addressed through transfers from appropriate funds, what would appropriate funds be?

Mike Basque – They can transfer from their own budget, which is what I believe what the Supt. is going to try to do. Basically from funds that they have that have already been authorized by the town.

Councilor King – Can you address the free cash issue? I know it is very confusing to explain because we are being withheld from our free cash the deficit.

Mike Basque – What is happening now with this account is that the DOR will deduct this from our free cash. Free cash is certified effective July 1 and if there is a deficit like this then they would come up with the free cash calculation and deduct this dollar amount. Once this deficit is made up the following July there would be no deficit so when they do their free cash calculation it is certified without that deduction. The effect of that is they are kind of reserving that just in case, so they won't let you spend that until you take care of it.

Councilor Pinierio – The vending machines at the high schools and middle schools, who is responsible?

Charles Chaurette – It goes into one of the revolving accounts. I believe at one of the school committee meetings the decision was made to take the revenues from the vending machine account and to devote those to reducing the school lunch deficit.

Councilor Pinierio – The students are using the vending machines instead of buying a hot lunch and at the end of the day they have to throw that food away, which is costing the school lunch program money. Do you think it would be beneficial to shut the vending machines down during school lunch time?

Charles Chaurette – There are a number of various vending machines that we have in the school department. Some are under the school department control and other are under the control of the PTA at various buildings. I can't tell you off the top of my head which ones are actually in use during the lunch periods. I believe very few are if any, I believe the ones that are dispensing things like water. I would be happy to check on that for you. There are some vending machines that the revenues go directly to the school lunch program. If you were to shut down those machines you would be simply adding to the problem.

President McMilleon – Don't some of the revenues from those vending machines go to athletics or to the sports program.

Charles Chaurette – Sure, some do.

President McMilleon – In FY02 in excess of \$10,000 was charged to school lunch for various student activities including student council and cheerleading and athletic supplies. This just doesn't happen in a school because every one of those activities has their own account and food service has its own account. How in the world inappropriate expenditures can be happening out of a food service account.....

Councilor Woodsom – On page 3 – Revenues from the school lunch only will be deposited into the school lunch account. What other revenues....

Charles Chaurette – It should have been a lot cleaner. You have a revolving account set up for school lunch and the only thing that should be going into that account are revenues for school lunch and the only expenditures that should be charged off of that account are appropriate expenditure that are consistent with the contract that you signed off with Chartwells, that did not happen. The why of that I really don't know but, there is no question that those days are over.

Councilor Woodsom – What other revenues were going into those accounts.

Charles Chaurette – Vending machines.

Councilor King – You are intending to have a full audit of all the finances?

Charles Chaurette – That is correct and the purpose of the audit is not really financial, the real purpose of the audit is to take a look at procedures. Clearly just looking at this we can see there are questions about procedures that were in place in the school dept. I want to be able to take a look at procedures that we do have in place and see which ones, if any, need modifications and changes. The point is we want to leave no stone left unturned. This is a wonderful time for us to take a look at the financial structure, the operational structure and make the changes that we need to make in order to make this school dept. more responsive to the community.

Councilor King – When will the audit take place?

Charles Chaurette – It will be completed by the end of January.

Councilor Pinierio – Mike, since you are the Chief Financial Officer don't you oversee the spending in the school dept.?

Mike Basque – Well, we oversee it, all the funds flow through us, we process all these payments. In the school departments case they authorize the payments through separate warrants through the school. They decide where they are charging these items. What we did, as soon as we saw the end of FY02 when the first deficit arose we sat down we them and said, including with our auditors, the Supt. of Schools and the Business Manager and said, why is developing? Is it because of a new program you instituted and in fact you need to come to a resolution to pay this back. They assured us that that was being dealt with; they assured our auditors that it was being dealt with. The following year they turned a small profit which was no where near what they needed to do. The Auditors again sat with them and said this needs to be dealt with. Back in January of this year, as this year is kind of going on, myself and the Mayor sat with the Superintendent of Schools and the Business Manager at that time and they assured us that they in fact had the program in control, which they appeared to, and that in fact they had the funds set aside to make these transfers to make sure the deficit would have been dealt with last fiscal year. Unfortunately, that didn't happen before they left and that brought us to this point.

President McMilleon – Why would the Mayor or your self not let this council know about this problem? To me that is a burning question.

Mike Basque – I think on my own part working with them I felt that they in fact had the situation under control. They told us point blank that they had the program turned around and were going to do a transfer and pay off the deficit that was there. They assured us of that, meeting with the

Superintendent, Business Manager and the Mayor, I don't have an answer better than that, and we were dealing with it.

Councilor King – Do other communities struggle with school lunch deficit problems?

Mike Basque – I don't know.

Charles Chaurette – Regrettably, the answer to that is that it is not unusual but what may be unusual is how we got there.

Councilor Pinierio – There are a lot of kids that are getting free lunches or half lunches. Do you think that our lunch program is giving out too many free lunches?

Charles Chaurette – The school lunch program has very specific guidelines that are handed down by the Federal government for which children are even eligible for free or reduced lunch, we simply follow those guidelines. I don't know what more we can do on that issue.

Councilor Pinierio – Who determines?

Charles Chaurette – At the beginning of the school year parents receive from the school district a free or reduced school lunch form. On that form parents need to indicate their level of income. That gets reviewed by someone at the school level and that gets authorized depending on income.

President McMilleon – If there are no further questions from the council I am going to open it up to the public.

Annette M. Dinietolis, 21 Orchard Street – I was pretty involved with this deficit from the very begin when I learned that they were using athletic fees to help pay it down, so I have some specific information if they want to hear it. First, there are specific MGL that apply to each and every one of these special revenue accounts. School lunch fund is pursuant to ch. 548 of the Acts of 1948. The school choice is ch. 76 sec. 12B. I don't know how Dr. Chaurette does not know how to pay down the deficit. According to a memo that he received from Norman Sanborn on Sept. 7th we had surpluses in all these revolving accounts. We had \$75,000 in school choice, Vending Fund \$7,734; User Fee fund had \$40,506. It was not appropriate to use it in this way however, that fund money should still be there. It should be and according to Tony Rashis at the DOR, that money we could take corresponding cuts to the departments line items and give it back to the town and use it to pay down this deficit. We have the money we just need to use the revolving fund money appropriately for what ever department it supports. That line item in our general budget could then be reduced by the similar amount leaving a surplus in that line item which could then be used to pay down that deficit. I do not understand why we can't come up with that money.

Charles Chaurette – Just sticking with the athletic fund I think it is generally known by this council since I sent you a report on that that in fact the intent was not to take the money from athletics, the intent was to correct what was an error in the previous year. That being said what we have gone on to discover relative to the line item in question was the trainer and coach's line item. On further investigation the projected expenditure in that line item for FY05 is \$144,000 the appropriated money for that money is 0. All I can assume based on that discovery is that the intent when the budget was put together was that the user fee for athletics would cover expenditures this year for that line item. Therefore, I am extraordinarily uncomfortable at this moment to take a nickel out of that user fee

because in fact I think we are going to need it for that line item. Truthfully, some of the budget assumption that I made in the summer and was lead to believe that they were appropriate have turned out to be not appropriate so I have really had to go back to the drafting board and basically come up with new solutions to this problem. That is way many of the things that Annette has talked about are no longer in play and I am really putting together a different package.

Annette Dinietolis – I guess I am blown out of the water.

Tom Iacobucci – I want to start by asking Mr. Basque a question. Mike, you said that the auditor identified the \$86,000 during the audit of FY02 was that included in the audit? Not having a copy of the FY02 audit with me and Mike saying that the report brought it forward, I find it amazing that anyone on the council could say you didn't know, whether it was brought to your attention or not. It might sound good or feel good to say that but I will point you to section 55 of the town charter. Annual Audit – the municipal council shall provide for an annual audit of the books and the accounts of the town and the school department to be made by a certified public accountant or firm. The municipal council shall publish in at least one newspaper of general circulation in the town a notice stating the availability for viewing the final audit report. The audit responsibility is yours; it's your job to make sure the audit happens. When I was a councilor we actually met with the auditor, he came in and presented to us. We actually identified areas that we thought should be looked at when we were in the appropriation committee. It is the council's job, do you get those audits? Do you actually read them? It is your job, to say you didn't know I find it of concern. Maybe you are all too busy I don't know but, certainly it is your audit, your responsibility.

Councilor Benson – I agree with you, I remember when that happened. We had a committee, post audit and oversight; we got rid of it two years ago. I think bringing something back like that - because you are right this is crucial and it is in the charter and we are not doing it. We need to bring this audit back to the central role that it once had because we did pay a lot of attention to it, it was a big deal. Whether or not it has something to do with this committee I don't know, maybe we can roll that into the finance committee. We do have to take some responsibility for this we can't just shrug it off and blame it on other people. I really think when we sit down in the rules and procedures meeting that is coming up we can talk about this. It is an important element of our job that has been ignored for the last few years.

Tom Iacobucci – In my last two years on the council we eliminated the post audit and oversight and separate appropriations committee and merged them and it became known as the appropriations committee. You renamed it Finance Committee and eliminated citizen participation on it but, those responsibilities are still spelled out in rules and procedures so it is still there. It is basically the same committee, different name.

Mike Basque – It was the FY03 management letter where this came out when we all started talking about the deficit. The council does receive the financials but, lets be honest we need to sit down and help the council with that. We can't just toss you 40 pages of financial statements and expect that everybody is going to pick every item out. Yes I know the auditor work for you folks and the audits go directly to you but, it is our responsibility to go over these things with you. There is a lot of responsibility here but, I don't think it is fair to expect that the council is going to pick out all.....and it has gotten more complicated with Gatsby 34 it harder and harder to identify specific accounts.

Council Pinierio – When you finish your audit in January is there any way that this council will get a copy of that audit?

Charles Chaurette – Sure, we would be more than happy to share any information with you. I would be more than happy to come and meet with the council.

Chris York, 13 Warren Avenue – I have been looking into this deficit for a while; I have sat at a few of the school committee meetings. The school dept. has its own council it's the school committee, they also have the finance subcommittee of the school committee. I'm not happy with either one of these groups. Sitting in on those deficit meetings, we were questioning how they were going to pay down this debt. We were told by the school committee; just let the professionals do their job. In my eyes it was the professionals doing their job that put us in this position. There is no accountability, it is a problem. It's certainly not Dr. Chaquettes fault he wasn't here although he is captain of the ship now. I hope he does right the ship. There is a whole other budget here the same size as the town budget. The school has a \$20,000,000 budget; it is the same size as the town. The committees that look over that budget need to comb through it. It is just not being done right now. It is frustrating as a taxpayer in this community seeing this sort of thing happen.

Councilor Benson – I am not trying to get into a blame game here. I just don't want to see us turn around and start lashing out at the school committee or officials when really some of the responsibility is with us. I think it is symptomatic of a larger problem and that problem is that we were not paying attention.

Mark Deschenes - I would like it to be known publicly that at the subcommittee the plan to pay down the deficit came up when it was OK to shift some of those monies around when apparently what was sound advise a couple of months ago has turned out to be wrong. That subcommittee approved that and it went up stairs and it was not opened for a public hearing and that school committee voted and I am curious if that vote was rescinded.

Charles Chaurette – Plan was not put in place because of the DOR.

Marc Deschenes – I would like for the special revenue accounts in town to be re-examined and look into what laws pertain and how they are being used. He questions the revenues raised and money appropriated for the building department and where it is all being spent.

President McMilleon – The annual audit that we are required to do is done every year and is published correct?

Mike Basque – Yes

President McMilleon – We are given through the charter the responsibility to make sure that the audit happens but really if you go back to Section 5 – Submission of the Budget/Budget Message, a section of that says that the Mayor shall submit to the council a proposed operating budget for all town agencies for the ensuing fiscal year with a budget message and supporting documents. The budget message submitted by the Mayor shall explain the budget in fiscal terms and in terms of work programs for all town agencies, it shall outline the proposed fiscal policies for the town for the ensuing year describe important features of the proposed operating budget and indicate any major variations from the current budget, fiscal policies, expenditures and revenues together with reasons for such change. It would seem to me that it would fall squarely on the shoulders of the Mayor to report this kind of discrepancy going on in every fiscal year which we never received as a council. I'm not saying that we don't have any responsibility here but I read this a year ago in last year's budget and I called

the executive branch to accountability in this because we were not getting this information. That is what I am upset about tonight.

Annette Dinietolis – There was quite a bit of money for a custodian and student council, it would seem to me that that money would have been budgeted for and those departments should have had an offset. We used the wrong accounts to pay someone's salary, dental and health those things were in the budget. I don't understand why there is not an excess remaining or do we just take excesses and transfer them.

President McMilleon – I am going to close discussions about this and go on with discussions with Mike Basque and George French on the High School Building project. Just to go back Dr. Chaurette you will be getting the council any inappropriate expenditure for FY03?

Charles Chaurette – Yes.

George French – My parting words were when I was here last was that efforts in the addition weren't going as well as they should have been.

President McMilleon – We have all heard recently a concern over keeping with the time table. My major reason in questioning this is really we want to know what the financial impact if any in terms of this delay and the length of the delay.

George French – We signed a contract with Alexander in July 2004. There are 4 basic deadlines 1) August 20, 2004 to have the temporary classrooms in the auditorium area ready. They met that deadline. At that point Alexander was getting ready B&C buildings which are the administration area and forward part of the two story wing ready for renovation. Some 30,000sq feet. The renovations seem to be moving along well. The demolition is done, asbestos out, putting steel studs up with drywall, roughing electrical, roughing plumbing, fireproof steel, windows 60% in, roughing fire suppression and a little mechanical piping done that is a little behind.

President McMilleon – What was the deadline for that?

George French – Phase I - it is to be complete end of July 2005 and the other part of Phase I is the new addition the big building on the left hand side which is roughly 44,000 sq ft. That is 3 levels, the lower level having most of the major service. The first floor is the library and some conference rooms and a couple classrooms. The third floor being 7 science labs. We were presented a new Critical Path Method this morning. CPM is where they break a job down into many activities and they are dated with an early start and late start date and an early finish and late finish. According to the schedule they showed us today it is showing they can complete the addition by the end of phase one, middle of August 2005. It appears there are several activities that are very questionable.

President McMilleon – What is the down side if they are delayed.

George French – The middle of next year we are supposed to move from the auditorium into the recently renovated and the new E building. The ramification there is if they are complete when they are supposed to be and there is another little phase the back part of the C building which has 7 classrooms up and 7 down, we are supposed to get into them early in June and that is supposed to be complete by the end of August also. If those areas are not available we have to stay where we are until they are available.

Councilor King – I sit on the high school building committee and a few issues I just want to inform the public of because there are parts of building the school under the current law that I was not aware of. The state construction laws have changed but the changes don't start until January. The state construction laws that Amesbury has entered under require that the community take the lowest bidder. We had no control over the contractor doing the school. The lowest bidder currently has 14 other school project going at the same time. I want the public to know that there is incredible oversight with this project. I want George to speak as to why the clerk of the works and the architect is on the job site.

George French – The committee voted to have a clerk and a field architect on site at all times instead of hiring a project manager because of the cost savings and if a sub has a question on a set of drawings the way we are set up he can go to the clerks trailer and the architect can review the problem and within 10 minutes most of the time they have an answer. So instead of writing a letter and waiting 3 months you get an answer right away, it moves the project right along. Phase II – we would be moving into the newly renovated areas and the new addition providing the 34 classrooms we have to have while we are under renovation and the contractor then gets the rest of the building to do his thing with a scheduled completion of August 2006. I mentioned we have 34,000 sq ft under renovation now and change orders have been kept down to a very low number and I think it is because we have a very good set of drawings because in this time frame we haven't come across anything substantial that is eating into our contingency in the change orders. We did get hurt a little bit in the beginning when bids went out in October and we were under funded and the council came up with the extra 5.2 the agreement in the bid says you sign a contract within 30 days, which we would have had to sign a contract in November we didn't get the money appropriated by this council until 14th of December and we had to wait a month to see if there was any court case against it, so the contract didn't get signed until the middle of January. During the time we asked for a 30 day extension to hold the price. All of the subs didn't buy into this so when the contract was finally signed by Alexandria we lost about 4 subs, three were not a big deal. There was a fairly substantial hit in miscellaneous metal; we had a hard time finding a miscellaneous metal subcontractor. I think we are in decent shape with our contingency fund.

President McMilleon – Superintendent I just have a question for you. Impact on the education of our kids in terms of any kind of delay at all; is there an impact?

Charles Chaurette – The key is that would make the transition into the new building that much more difficult. As you know the time to transition is in the summer rather than in the middle of the school year. That becomes dicey in terms of Ok when that building is complete when do we do that so it is less disruptive to the educational process. If it gets out of sequence it is problematic that way. I need to tell you I have been involved with several building projects in my former district and the principal Mike Curray and Les Murray working together as a team to make the kinds of accommodations they have needed to make so far they have done a magnificent job so I have no doubt that if we do have a problem Les will come up with a solution that works. Quite frankly I would much prefer we stay on time.

President McMilleon – I was reading that we have not borrowed as much as we had initially anticipated so we are not extended out there beyond where we should be but there is going to be a cost in terms of a delay when we actually do go out to bond additional funds.

Mike Basque – We are at the mercy at what ever happens. The schedule we presented when the project was voted....what is in the budget this year we had budgeted \$90,000 for interest on short term notes in FY05 and thatThat money had been borrowed so that that is pretty much in place, that is about 5 million dollars that we have out there now. What we were planning on doing was we were going to borrow another 8.5 million dollars last August, we did not have to do that because following the cash flow requirements they weren't going through it as quickly. In fact we are borrowing 5.5 million this month and then we will do another borrowing in March. I think that will have an effect on FY06 numbers. I think we presented roughly \$400,000 in carrying costs in FY06 I think the number will come down. Then further we should be getting reimbursed in FY06 which really blows in a positive way all of our numbers out of order. If we in fact get that reimbursement and it is not definite how the total dollars are going to work, that program is still evolving, but on a program like ours where we have not permanently financed it gives us options; if they take and reimburse us our full amount up front we would only borrow the smaller dollar amount and it depends on timing, if we have a lot of short term notes out that equal \$20,000,000 and we get \$20,000,000 that has one effect. If we only have \$10,000,000 in notes out and we receive \$20,000,000 we would really lower those costs. The only thing that would really concern me about stretching out the project is there is more oversight; cost of materials those things we would have to watch out for if it got dragged out too long. Right now the effect has been a little bit of a positive effect because of how we are doing our borrowing.

Councilor King – George, can you speak to the responsibility of the contractor if they go beyond the dates.

George French – I believe there is a one or two thousand dollar a day penalty but it is my understanding from the owner of the architect outfit that it is almost impossible to collect these penalties. What you can collect actual out of pocket additional costs. If we do go over our deadlines we have to be very careful in documenting all of the extra costs involved. Additional short term interest, salary of the clerk, salary of the contract administrator and by this point in time we would probably have the field architect on a 50% time basis, those would be your major costs.

Councilor Lawrence – The name of the clerk of the works.

George French – Lee LeBlanc

Councilor Lawrence – You originally had a completion date of August 20, 2004 for the temporary classrooms in the auditorium. The last couple weeks there has been considerable press on the noise levels in the auditorium, what is being done to correct that.

George French – There was an open house on the hottest day of the summer just about and a big article came out in the newspaper that the new addition was plagued by air quality and noise. Later on in the article they say CO2 was 850 parts and they tested it and it was down in the 400 area. The newspaper just likes to send out negative stories all the time. We started working with a vendor out of Newburyport that we had worked with up at the Cashman because of a noisy computer room up there. We installed 1200 sq ft of sound panels basically around the perimeter in all of the classrooms in the auditorium. The feed back from the students is the noise is muffled and the sound deadened. We took readings run 63 or 64 to the low 70's which are within standards. We ordered another 700 feet of panels which we are going to put in the horizontal position over the corners to bring it down another 3 or 4 decimals.

Councilor Lawrence – What is the additional cost of the panels?

George French – Total about \$12,000 worth of panels. They are not a throw away panel when we move out of the auditorium. We will find places to use these panels.

Councilor Lawrence – I understand that you were contacted by a noise control specialist out of Newburyport. He said the solutions that you were coming up with weren't working and he approached you and he had a solution and you were not interested.

George French – He was new to the business and I have been working for this other guy for 2-3 years and I have confidence in him, we have a course of direction and we are taking it.

Councilor King – I want to speak to the sound issue more in detail than what came up at the meeting. Basically, the way the computer labs are set up they are next to English labs and as it came towards the end of the term the kids were putting together their end term reports and they were doing videos that had rock music in them. The sound levels were manageable and then the computers were being cranked up because of the pop music that was playing as the kids were doing their projects. One of the ideas to help mediate the sound was to put ear phones in the computers so the music wouldn't be extended out to other places. It was an issue that flared up it is not an on going issue.

George French – The school department is also being creative in the number of classrooms they have going at any one point in time. They set a classroom up out in the corridor where they show most of their videos.

Councilor Chandler – Newburyport had a \$1,000 a day penalty clause and it seems that the contractors just ignore that because what is a \$1,000 a day when they are working on a \$26 million dollar project. I am wondering why we didn't have a \$10,000 or \$20,000 a day clause. And do these take effect in stages along the way like at the end of Phase I if they are not done do we hit them? I think we should hit them and hit them hard. I don't see it as being the direct costs because there are many indirect costs. What is the cost of pain and suffering from kids not going to their own high school? If somebody else is suing somebody there are a lot of indirect costs that are being applied. Do we have to wait until the end when it is supposed to be finished or do these penalties take effect at the phases?

Barbara LaBella, High School Building Committee – We did hit a bench mark with the temporary classrooms we have a couple more that will happen before the project is due for delivery but we did hit that. We need to have confidence and show support while being attentive to deadlines to this contractor and to the Town of Amesbury. We weren't given advance notice to come to tonight's meeting. The contractor would love to know more in advance about a meeting like this. The architect would have liked to have been here but, there wasn't enough advanced notice. Ann is doing a wonderful job so you have a great liaison to communicate to you the status of the project.

Councilor Chandler – Is there anybody here that can answer my question as to whether these penalty clauses take effect as phases go along. If something is missed in phase 1 do the penalty clauses take effect?

Barbara LaBella – I am not sure about that. We have hit the first bench mark and we need to honor that. To the public this project looks like it is not moving along and there are pieces that aren't but there is something that is called an early start and an early finish and there is something to seeing one section being delayed but work going on in another area. I asked today to get a little bit better PR

and to get a website that has pictures to give some more information that all of us can understand about how we are proceeding and that is something that the architect is going to do for us.

Councilor King – I would like to invite anybody in the public to come to one of our meetings. They are held the fourth Tuesday at the High School in the sewing room. I want the public to have confidence in this project and the confidence is well deserved because the people are doing a wonderful job.

President McMilleon – We can arrange more for more regular and consistent updates on the High School. I think there was a lot of information floating around the community in terms of the delay of the High School Project and that's why I wanted to have some sort of report tonight.

Councilor Woodsom – I was wondering if maybe we should schedule one now for our January meeting so everyone has the notice that they need, invite the Architect and the Contractor.

President McMilleon – We are going to move into public comment.

PUBLIC COMMENT

Annette Dinietolis, 21 Orchard Street – Thank the School Building Committee and reminds them that they only have a \$500,000 contingency fund for a \$29.7 million dollar project. We are on the hook for anything over. I think we need additional oversight on special revenue accounts. I learned yesterday the Mayor is coming here tonight with \$159,000 in additional spending. His intention is to use the windfall that we are going to be getting from the state \$168,000. In July it was reported that the Mayor intended to use this windfall from the state to pay for a liability that we had for an oil spill. A contractor that we contracted with to take waste oil was dumping it in the ground and according to the federal government Amesbury is responsible for a portion of this. He intended to use that windfall money to pay for this so when I saw that he was coming here tonight to ask for more money I called Mike Basque to ask him, what happened to the BD Waste Oil management facility project that we are liable for to the tune of \$96,000 he said we took care of that. I said you did with what money? His reply was that they used money from the DPW for old reimbursements for road repair. I asked him if this was an appropriate use of this money and he said it was. Given the recent revelations with the school funds I was skeptical I have to take him at his word. This is the kind of thing I would like you to look at. There was no reporting on the transaction that took place. I can see nothing showing that the DPW had excess or surplus in reimbursements. Reimbursements imply that we spent money and that someone reimbursed us. I would think that somebody would want to know that we had \$80 – 90 thousand to pay for this cleanup. I would like the finance committee to find out how that happens. The inspection department has an annual budget for \$152,000 they collected and additional \$234,000 for fees and permits, its \$286,000. I am not saying that there is anything unethical going on but does it cost that much money to run that department? If it doesn't and we are using it as general revenue enhancement we need to know. I want to know whether or not that is an appropriate use of that money under the MGL that govern that kind of account. There is an answer to this question.

Councilor Benson – I feel like Dennis is being kind of caught in the middle of this. I know that we take from receipts and we appropriate.

Dennis Nadeau – My budget \$159,000 this year, what we took in in last years permit fees is \$250,000; I don't know the exact amount. So the \$160,000 is my budget that whole \$250,000 goes into the general fund, I don't see any of it. The only thing I have to do is to prove.... I can not raise more than 10% of what my fees take in, can not be more than 10% of what it costs me to run my department or it would be considered double taxation, that is what MGL says. I broke down

everything that it costs me, when you take the \$159,000 that is not the costs for insurance for all the employees, it is not the cost for running the building, and it is not everything in the building. I broke all that down to 1/3 of what it costs to run the annex and put it into my budget and my budget came out to \$219,000 so if you figure what I brought in – 7% over what I was taking in for fees. All I am doing is paying my fees. I don't know where they are coming from saying they are adding \$159,000 to the \$250,000, \$250,000 is what I brought in, \$159,000 is what my annual budget is.

President McMilleon – We are not going to get into a discussion about this.

Marc Deschenes – Did this council know that old reimbursements were used to pay the BD debt.

President McMilleon – Let's be fair about this, we went over a number of accounts and whether or not this council was informed of that use of funds I can't say.

Marc Deschenes – It is \$96,000 that is hanging around the corners of town hall. It was never done publicly I pay pretty close attention. It never hit the papers that we paid it; there was a big article that we owed it. I would imagine that the administration would want the finance committee and or the municipal council to know that there are old reimbursements hanging around and that they were being used to pay down this obligation that we had.

President McMilleon – We will raise those questions and we will find out if it was used was it appropriate to be expended in that way.

Annette Dinietolis – I find it hard to believe that the Mayor's priorities are Alan's Truck Stop when we have road repair money hanging and we still don't have sidewalks at Cashman School. How is he setting those as priorities when it has been brought to his attention that a child was struck by a car on Lions Mouth Road and we still don't have a sidewalk? Thanks for nothing Mr. Mayor

Councilor Pinierio – The Mayor assured me that the sidewalks will be going in next spring. We have to take some property and they will be in next spring.

Recess 9:00 – 9:08

SECOND READINGS

2004-83 An Act authorizing the Town of Amesbury to establish a Tourism Promotion Fund – Councilor Lawrence sponsor cont.

President McMilleon – reads 2004-83 into the record.

Councilor Lawrence – I would like to continue this to our December 14h meeting.

Councilor Pinierio – second

Voted – Unanimous

PUBLIC HEARINGS

2004-86 An Ordinance to delete e) from Section IX paragraph B.1 from the Town of Amesbury Zoning Bylaw – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-86 into the record. This was tabled by the Planning Board.

Councilor Lawrence – We didn't have a quorum so we will continue it.

President McMilleon – I will not open the public hearing do I hear a motion?

Councilor Woodsom – I move we continue this to our December 14th council meeting and hold a public hearing at that time.

Councilor Benson – seconded

Voted – Unanimous

2004-95 An Ordinance to Amend the Amesbury Zoning Bylaw Sec. X – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-95 into the record, this was approved by the Planning Board. On all of these, are we going to run into a problem with a quorum problem with Ordinance Committee?

Councilor Lawrence – Yes

Councilor Woodsom – I move that we continue the public hearing for December 14th council meeting.

Councilor Benson – seconded

Voted - Unanimous

2004-96 An Ordinance to Amend the Amesbury Zoning Bylaw Sec. XI.P – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-96 into the record, again we did not have a quorum in the Ordinance Committee.

Councilor Woodsom – I move that we continue this to our December 14th council meeting for a public hearing.

Councilor Lawrence – second

Voted – Unanimous

2004-97 An Ordinance to Amend the Amesbury Zoning Bylaw Sec. XIV – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-97 into the record, this was approved by the Planning Board again we still do not have a recommendation from Ordinance.

Councilor Woodsom – I move that we continue this to our December 14th council meeting for a public hearing.

Councilor Benson – second

Voted – Unanimous

2004-101 A Request to petition the Municipal Council to vote to discontinue and abandon an old highway located on property at 42 and 44 Merrimac St., Amesbury – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-101 into the record - This was tabled by the Planning Board this was also referred to Ordinance.

Councilor Woodsom – This was tabled so why don't we just table it here. I move that we table this and it will come back when they rule on it.

Councilor Pinierio – second

Voted – Unanimous

2004-102 A Request to authorize the Mayor to convey and grant to Robert Podsen, the Town's right, title and interest in one-half of the "Old Highway" – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-102 into the record. This was tabled by the Planning Board.

Councilor Woodsom – I motion to table.

Councilor King – second

Councilor Chandler – Does anybody know why this was tabled by the Planning Board?

Councilor Benson – Didn't something happen with the Historical Commission on this?

Councilor King – I heard that the Historical Commission approved.

President McMilleon – Motion to table

Voted – Unanimous

2004-103 A Request to authorize the Mayor to accept a Utility and Access Easement from Robert Podsen – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-103 into the record - This was also tabled by the Planning Board.

Councilor Woodsom – Motion to table

Councilor Benson – Second

Voted – Unanimous

2004-104 A Request to authorize the Mayor to convey and grant to Norman M. Burrell, the town's right, title and interest in one-half of the "Old Highway" – Mayor Hildt sponsor

President McMilleon – reads 2004-104 into the record – This was tabled by the Planning Board.

Councilor Woodsom – I motion to table

Councilor Benson – second

Voted – Unanimous

2004-105 A Request to authorize the Mayor to accept a Utility and Access Easement from Norman M. Burrell – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-105 into the record - This was also tabled by the Planning Board.

Councilor Woodsom – I motion to table

Councilor Pinierio – seconded

Voted – Unanimous

2004-106 A Request that the Municipal Council vote to authorize the Mayor to execute all documents pertaining to the discontinuance and abandonment of “Old Highway” at 42 and 44 Merrimac Street – Mayor Hildt sponsor cont.

President McMilleon – reads 2004-106 into the record – This was tabled by the Planning Board.

Councilor Woodsom – I motion to table.

Councilor Benson – second

Voted – Unanimous

NEW BUSINESS

2004-119 An Order to request that the Municipal Council allows the Town of Amesbury to accept and expend a U.S. Dept. of Homeland Security Grant - \$4,500.00 – Mayor Hildt sponsor

President McMilleon – reads 2004-119 into the record

Councilor Woodsom – For starters I would like to reschedule our next Finance Committee meeting. It is currently scheduled for the Wednesday before Thanksgiving. I would like to move it to Dec. 8th. I would like to recommend that we send 2004-119 to the December 8th Finance Committee meeting for a public hearing.

Councilor Benson – second

Voted – Unanimous

2004-120 An Order that \$60,000 be appropriated for the purchase of demolishing and removing the structures at Trader Alan’s Truck Stop – Mayor Hildt sponsor

President McMilleon – reads 2004-120 into the record.

Councilor Woodsom – I refer this to the December 8th Finance Committee meeting for a public hearing.

Councilor Benson – Second

Voted – Unanimous

2004-121 An Order that \$35,000 be appropriated for the purpose of purchasing Map 87, Lot 2 from Sprague Energy – Mayor Hildt sponsor

President McMilleon – reads 2004-121 into the record

Councilor Woodsom – I refer this to the December 8th Finance Committee meeting for a public hearing.

Councilor – Benson – second

Voted – Unanimous

2004-122 An Order that \$14,000 be appropriated for the purpose of removing oil tanks in the Upper Millyard – Mayor Hildt sponsor

President McMilleon – reads 2004-122 into the record.

Councilor Woodsom – I move that we refer this to the December 8th Finance Committee meeting for a public hearing.

Councilor Benson – second

Vote – Unanimous

2004-123 An Order that \$50,000 be appropriated for the purpose of purchasing 2 police cruisers – Mayor Hildt sponsor

President McMilleon – reads 2004-123 into the record.

Councilor Woodsom – I move we refer this to the December 8th Finance Committee meeting for a public hearing.

Councilor Lawrence – second

Voted – Unanimous

2004-124 - An Order to increase the exemption amount of qualified applicants under the provisions of M.G.L. Chapter 59, Section 5, Clause 17E, Clause 22 through 22E, Clause 37A, Clause 41D, Clause 42 and Clause 43 by 100% as provided by Chapter 73, Section 4 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988 – Mayor Hildt sponsor

President McMilleon – reads 2004-124 into the record

Councilor Benson – I move we refer this to the Finance Committee meeting on December 8th for a public hearing.

Councilor Lawrence – second

Voted – Unanimous

2004-125 An Order to hold the annual Classification Hearing – Mayor Hildt sponsor

President McMilleon – reads 2004-125 into the record.

Councilor Woodsom – I recommend that we send this to the December 8th Finance Committee meeting for a public hearing.

Councilor Benson – second

Voted - Unanimous

President McMilleon – We also have a late file, we have to suspend the rules to accept a late file.

Councilor Woodsom – I move that we suspend Rule 5D.

Councilor Benson – second

Voted – 6 Yes, 1 No (McMilleon)

President McMilleon – I need a motion that we accept a late file.

Councilor King - I am just curious why it is a late file.

Councilor Woodsom – It wasn't ready in time for the filing deadline.

Councilor Pinierio – I make a motion that we accept 2004-126 as a late file.

Councilor Chandler – second

Voted – 6 Yes, 1 No (McMilleon)

2004-126 – Be it ordained by the Municipal Council of the Town of Amesbury assembled, and by the authority of the same as follows: That Article 7 of the Amesbury Town By- Laws, currently titled “Submission of the Annual Budget, Capital Improvement Plan and Financial Forecast” be amended, by replacing the existing Article 7, with the proposed Article 7 defined within – Councilor Lawrence and Councilor Woodsom sponsor.

President McMilleon – I ask for a recommendation on 2004-126

Councilor Woodsom – Before we refer this to committee which would ultimately be Rules and Procedures, I would like to schedule a Rules and Procedures meeting. The date I had in mind is November 29, 7:00PM in the Town Hall Auditorium.

President McMilleon – The recommendation is for 2004-126 to be referred to the Rules and Procedures Committee which will meet on 11/29, Town Council and to the Ordinance Committee.

Councilor Pinierio – second

Voted – Unanimous

COUNCIL COMMUNICATIONS, ANNOUNCEMENTS AND COMMITTEE REPORTS

Councilor King – Pam Brown on the COA asked me to share with the Council members and the public to let them know that they are invited to a celebration, National Caregivers and Alzheimer's Month. They are holding a seminar on November 18th at the Senior Center.

Councilor Pinierio – We raised \$620.00 at Sam's Club to send more packages to Iraq. However helped I want to thank you very much.

Councilor Benson – I motion to adjourn

Councilor Chandler – second
Adjourn 9:30
Respectfully submitted,
Assistant Town Clerk